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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 001706

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SUBJECT: PEACE COMMISSIONER'S CONCERNS ABOUT DEMOBILIZATION  
LAW

Classified By: Ambassador William B. Wood for reasons  
1.4 (b) and (d)

1. (C) Summary: On February 17, President Uribe rejected Peace Commissioner Luis Carlos Restrepo's offer to resign and authorized him to suggest changes to the GOC's draft demobilization law. Restrepo explained to the Ambassador that he fears the current GOC draft law would discourage demobilization. Restrepo's negotiating strategy is to get as many paramilitaries to demobilize as possible by requiring relatively few hurdles at the onset. Once the state has identified and disarmed them and put them under firm state control, it can then focus on identifying and punishing the major criminals and dismantling paramilitary economic and political power. Restrepo's main concern with the draft law is that, if all paramilitaries are required to confess all crimes and undergo an investigation immediately upon demobilizing, they will refuse to do so. He noted that the GOC has no identifying information on approximately 95 percent of the United Self Defense Forces of Colombia (AUC). Restrepo is also concerned that the law is too focused on punishing paramilitary sympathizers and that the reparations mechanism is ineffective. He is a strong advocate of mandatory time in confinement for paramilitaries who committed major crimes. End Summary.

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Restrepo's Negotiating Strategy  
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2. (C) On February 14, Peace Commissioner Restrepo offered to resign over his disagreement with the GOC-sponsored demobilization bill ("Law for Peace and Justice"). On February 17, President Uribe rejected the resignation and authorized Restrepo to suggest changes to the law to Minister of Interior and Justice Sabas Pretelt and to Congress. Uribe assured Restrepo that he would personally oversee the Congressional debate on the bill to ensure a viable draft is passed. On February 18, the President held an initial meeting with Restrepo, Pretelt, Vice President Francisco Santos and some pro-Uribe Congressman to discuss the draft.

3. (C) Restrepo explained to the Ambassador on February 17 that the current draft jeopardizes his negotiating strategy with the AUC. His objective is to get as many paramilitaries as possible under state control, by offering incentives to demobilize rather than imposing strict requirements at the onset. According to Restrepo, the GOC has no record of about 95 percent of the AUC. Once they demobilize, the state can identify and disarm them and put them under firm state control. After this is done, the GOC can begin finding and punishing those who committed major crimes and dismantle the AUC's economic and political power structure. In short, Restrepo is working to persuade the paramilitaries to turn themselves over to the state by delaying the investigation and punishment phase until it is too late for them to flee.

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Main Concern: Encourage Demobilization  
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4. (C) Restrepo's principle problem with both the government draft and the version submitted by Senator Rafael Pardo is that it would discourage demobilization by imposing too many legal requirements immediately after demobilization. The GOC and Pardo draft laws call for demobilizing persons to confess all crimes and for the Prosecutor General's Office (Fiscalia) to open an investigation on each individual. Restrepo explained that if this were the case, the paramilitaries would instead forgo demobilization knowing that there was little chance the authorities would ever be able to capture them. Moreover, the requirement to investigate all demobilizing individuals would make Law 782 obsolete. Law 782 authorizes the state to pardon members of an illegal armed group who demobilize and who are guilty only of rebellion against the state and other related, minor crimes. Under Law 782, the Fiscalia debriefs the individuals but a formal investigation is not conducted. Restrepo emphasized that Law 782 was working well to facilitate demobilization and screen out the major criminals, and that he wanted it to stay in place.

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Confession and Reparations  
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15. (C) Restrepo has two other concerns with the drafts. He is worried that, by requiring a full confession, the law would call for paramilitary supporters to be punished. He noted that in some AUC-dominated areas nearly the entire community collaborated with the paramilitaries, including politicians and military personnel, because they had no choice. He expressed concern that some leftist politicians are eager to expose and punish these sympathizers. Instead, Restrepo asserted that the state should focus on sensitizing the population on responsible civilian behavior and building confidence in legitimate authority. He emphasized that any sympathizers who committed major crimes would be punished.

16. (C) Lastly, Restrepo said the reparations mechanism in the draft laws was ineffective because it simply demanded full disclosure of illicit assets. Most AUC members have very little property held in true name and would be unlikely to turn over even a small percentage of their assets. Instead, Restrepo wants to strengthen the current asset forfeiture law to give the state greater and permanent power to seize all illicit assets. In Restrepo's view, the state would then be responsible for giving reparations to victims from those seized assets. He underscored that dismantling the AUC's economic power was key to a successful peace process. Otherwise, the AUC would retain its power because of its capacity to buy off people.

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Holding Criminals Responsible  
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17. (C) Restrepo will insist that paramilitaries guilty of major crimes are fully investigated, serve a mandatory time in confinement, and have all illicit assets seized. He is a proponent of some sort of truth commission that would offer a judicial benefit, such as a reduced sentence, for major crimes for those who demobilize and collaborate with authorities. He noted that President Uribe wants the alternative sentence to be served in an official prison, but that the AUC leaders would demand a less restrictive confinement center.

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Committed to His Positions  
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18. (C) Restrepo is aware that his views may lead to accusations that he is a paramilitary supporter, especially since he cannot reveal his negotiating strategy publicly. He said, however, he could not allow a draft law to pass that would compromise his strategy. The Ambassador reiterated that the USG would like to see a law that dismantles the AUC, punishes major criminals, and is transparent.

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